IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

Crl.MC.No. 110 of 2007()

CC.800/2004 of JUDL. MAGISTRATE OF FIRST CLASS, KOLLAM.

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PETITIONER:

MOHANAN PILLAI,
AGED 44, S/O. THANKAPPAN PILLAI,
RESIDING AT PANACKAL PADINJATTATHIL,
KONNAYIL CHERRY, PARAVUR P.O.,
KOLLAM DISTRICT.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENTS:

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
PARAVUR P9OLICE STATION,
KOLLAM.

BY P.P. SRI. THOMAS JOHN.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 110 OF 2007

Dated this the 12th day of January, 2007

ORDER

The petitioner is the 1st accused in a crime registered, inter alia, under Sec.394 read with Sec.34 of the IPC. Accused 2 and 3 have already been tried, found not guilty and acquitted, it is submitted. But, the case against the petitioner could not be proceeded with as the petitioner was not available. The alleged incident took place in 1999. The case was registered initially as C.C.No.714/99. After trial and acquittal of the co-accused, the case against the accused was split up and is now pending as C.C.No.800/04. The petitioner did not make himself available before the learned Magistrate. Consequently, the learned Magistrate has issued a non-bailable warrant of arrest to procure the presence of the petitioner. It is, in these circumstances, that the petitioner has come to this Court.

2. The learned counsel for the petitioner submits that the petitioner is willing to surrender before the learned

Magistrate. The petitioner apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. In these circumstances, he prays that directions under Sec.482 of the Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he surrenders and applies for bail. I find no merit whatsoever in the said prayer.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge